



Board of Commissioners of Cook County

Rules and Administration Committee

Wednesday, September 25, 2019

9:30 AM

**Cook County Building, Board Room
118 North Clark Street, Chicago, Illinois**

NOTICE AND AGENDA

There will be a meeting of the Committee or Subcommittee of the Board of Commissioners of Cook County at the date, time and location listed above to consider the following:

PUBLIC TESTIMONY

Authorization as a public speaker shall only be granted to those individuals who have submitted in writing, their name, address, subject matter, and organization (if any) to the Secretary 24 hours in advance of the meeting. Duly authorized public speakers shall be called upon to deliver testimony at a time specified in the meeting agenda. Authorized public speakers who are not present during the specified time for public testimony will forfeit their allotted time to speak at the meeting. Public testimony must be germane to a specific item(s) on the meeting agenda, and the testimony must not exceed three minutes; the Secretary will keep track of the time and advise when the time for public testimony has expired. Persons authorized to provide public testimony shall not use vulgar, abusive, or otherwise inappropriate language when addressing the Board; failure to act appropriately; failure to speak to an item that is germane to the meeting, or failure to adhere to the time requirements may result in expulsion from the meeting and/or disqualify the person from providing future testimony.

[19-5569](#)

COMMITTEE MINUTES

Approval of the minutes from the meeting of 09/04/2019

[19-4770](#)

Presented by: N. KEITH CHAMBERS, Executive Director, Department of Human Rights and Ethics

PROPOSED CHANGES TO PUBLIC FACING RULES AND REGULATIONS

Department: Cook County Department of Human Rights and Ethics

Summary:

PART 700 JUST HOUSING AMENDMENT INTERPRETIVE RULES

Section 700.100 **Prohibition of Discrimination**

Article II of the Cook County Human Rights Ordinance (“Ordinance”) prohibits unlawful discrimination, as defined in §42-31, against a person because of any of the following: race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge, source of income, gender identity or housing status.

Additionally, any written or unwritten housing policy or practice that discriminates against applicants based on their criminal history, as defined in § 42-38(a) of the Ordinance, is a violation of the Ordinance. Any written or unwritten housing policy or practice which discriminates against applicants based on their convictions, as defined in § 42-38(a) of the Ordinance, prior to the completion of an individualized assessment violates the Ordinance.

Nothing in this section shall be interpreted as prohibiting a housing provider from denying housing to an applicant based on their criminal conviction history when required by federal or state law.

Nothing in these rules shall be construed as prohibiting any public housing agency from denying housing to any applicant based on the applicant’s criminal conviction history when required by federal or state law mandate or permits such denial.

SUBPART 710 **AUTHORITY AND APPLICABILITY**

Section 710.100 **Authority**

These rules are adopted in accordance with the authority vested in the Cook County Commission on Human Rights, pursuant to § 42-34(e)(5) and §42-38(c)(5)(c) of the Ordinance, to adopt rules and regulations necessary to implement the Commission’s powers.

Section 710.110 **Applicability**

These rules shall go into effect on the effective date of the Just Housing Amendment (No. 19-2394) to the Ordinance and shall only apply to claims that arise out of actions that occur on or after the effective date of the amendments.

SUBPART 720 **DEFINITIONS**

Section 720.100 **Definition of Business Day**

“Business Day” means any day except any Saturday, Sunday, or any day which is a federal or State of Illinois legal holiday.

Section 720.110 **Definition of Criminal Background Check**

“Criminal background check,” as referenced in § 42-38(e)(2)(a), includes any report containing information about an individual’s criminal background, including but not limited to those produced by federal, state, and local law enforcement agencies, federal and state courts or consumer reporting agencies.

Section 720.120 **Definition of Demonstrable Risk**

“Demonstrable risk,” as referenced in § 42-38(c)(5)(c), refers to the likelihood of harm to other residents’ personal safety and/or likelihood of serious damage to property based on the applicant’s history of criminal conviction(s) within the last five (5) years and the factors considered in the individualized assessment.

Criminal convictions that are five (5) years old or older do not represent a demonstrable risk to personal safety or property; housing providers may only consider criminal convictions that have occurred within the last five (5) years. Categories of criminal convictions that may represent a demonstrable risk to personal safety or property, unless rebutted by factors considered in the individualized assessment, include:

- (A) Felony drug-related criminal activity defined as the illegal manufacture, sale, distribution of drugs or the intention to manufacture, sell, or distribute the drug, except such drug-related criminal activity that has been decriminalized or legalized after the date of conviction.
- (B) Violent criminal activity defined as any criminal activity that involves the use, attempted use, or threatened use of physical force that causes or that is substantial enough to cause serious bodily injury or property damage.
- (C) Criminal Sexual Conduct including, sexual assault, incest, open and gross lewdness or child sexual abuse.

Section 720.130 **Definition of Public Housing Agency**

“Public Housing Agency” means any state, county, municipal or other governmental entity that is authorized to develop or operate low income housing under the U.S. Housing Act of 1937 (12 U.S.C. 1701), as amended.

Section 720.140 **Definition of Relevance**

“Relevance,” as referenced in § 42-38(e)(2), refers to the degree to which an individual’s conviction history makes it more or less likely that if the criminal conduct reoccurred, the act would impact the personal safety and/or property of others.

Section 720.150 **Definition of Tenant Screening Criteria**

“Tenant screening criteria,” as referenced in § 42-38(e)(2)(a), means the criteria, standards and/or policies used to evaluate an applicant’s conviction history. The criteria, standards and/or policies shall apply ONLY AFTER a housing applicant has been pre-qualified. The criteria must explain how applicants’ criminal conviction history will be evaluated to determine whether their conviction history poses a demonstrable risk to personal safety or property.

SUBPART 730 **TWO-STEP SCREENING PROCESS**

Section 730.100 **Notice of Tenant Screening Criteria and Two-Step Screening Process**

Before accepting an application fee, a housing provider must disclose to the applicant the following information:

- (A) The tenant screening criteria, which describes how an applicant’s criminal conviction history will be evaluated to determine whether to rent or lease to the applicant;
- (B) The applicant’s right to provide evidence demonstrating inaccuracies within the applicant’s conviction history, or evidence of rehabilitation and other mitigating factors as described in §750.100 below; and
- (C) A copy the Cook County Commission on Human Rights (“Commission”) interpretative rules, or a link to the Commission’s website, or address and phone number of the Commission.

Section 730.110 **Step One: Pre-Qualification**

No person shall inquire about, consider or require disclosure of criminal conviction history before the prequalification process is complete and the housing provider has determined the applicant has satisfied all other application criteria for housing or continued occupancy.

Section 730.120 **Notice of Pre-Qualification**

Once a housing provider determines an applicant has satisfied the pre-qualification standards for housing, the housing provider shall notify the applicant that the first step of the screening procedure has been satisfied and notify the applicant that a criminal background check will be performed or solicited.

Section 730.130 **Step Two: Criminal Background Check**

After or at the same time a housing provider sends the notice of prequalification required by Section 730.120, a housing provider may perform or solicit a criminal background check on the pre-qualified applicant.

SUBPART 740 **CONVICTION DISPUTE PROCEDURES**

Section 740.100 **General**

Before denying admission or continued occupancy based on criminal conviction history, a housing provider must provide the housing applicant or resident with:

- (A) a copy of any criminal background check and other screening material relied upon; and
- (B) notice of the applicant's right to dispute the accuracy or relevance of any conviction(s) in accordance with Section 740.110 of these rules.
- (C) A copy of these rules, or a link to the Human Right's Commission website, or the address and phone number of the Commission.

Section 740.110 **Opportunity to Dispute the Accuracy and Relevance of Convictions**

- (A) Once a copy of the criminal background check is provided to the applicant, the applicant shall have five (5) business days from the postal or electronic mail date stamp to notify the housing provider in writing of the applicant's intent to dispute the accuracy or the relevance of the information.
- (B) The applicant shall have an additional five (5) business days to produce evidence that disputes the accuracy and/or relevance of any information contained within the criminal background check.

Section 740.120 **Dispute Procedures and Other Applicants**

If a pre-qualified applicant provides notice of their intent to dispute the accuracy or relevance of criminal conviction history in accordance with §740.110, the housing provider must complete the notice and dispute process of §740.110 before extending housing to another applicant.

If a housing applicant does not dispute the accuracy or relevance of the criminal conviction history and the housing provider determines that the applicant poses a demonstrable risk, the housing provider can extend housing to another pre-qualified applicant.

SUBPART 750 **INDIVIDUALIZED ASSESSMENT**

Section 750.100 **Review Process**

After giving an applicant the opportunity to dispute the accuracy and/or relevance of their conviction(s)

listed in the criminal background check, a housing provider must conduct an individualized assessment, as defined in §42-38(a) of the Ordinance. The individualized assessment is used to determine whether denial based on criminal conviction history is necessary to protect against a demonstrable risk to personal safety and/or property.

The factors that may be considered in performing the individualized assessment include, but are not limited to:

- (A) the nature and severity of the criminal offense and how recently it occurred;
- (B) the conduct underlying the conviction;
- (C) the nature of the sentencing;
- (D) the number of the applicant's criminal convictions;
- (E) the length of time that has passed since the applicant's most recent conviction;
- (F) the age of the individual at the time the criminal offense occurred;
- (G) evidence of rehabilitation;
- (H) the individual history as a tenant before and/or after the conviction;
- (I) whether the criminal conviction(s) was/were related to or a product of the applicant's disability;
- (J) whether, if the applicant is an individual with a disability, any reasonable accommodation could be provided to ameliorate any purported demonstrable risk; and
- (K) other mitigating factors.

SUBPART 760 NOTICE OF FINAL DECISION

Section 760.100 Decision Deadline

A housing provider must either approve or deny an individual's housing application within three (3) business days of a final decision to deny admission or continued occupancy based on criminal conviction history.

Section 760.110 Written Notice of Denial

- (A) Any denial of admission or continued occupancy based on a conviction must be in writing and must provide the applicant an explanation of why denial based on criminal conviction is necessary protect against a demonstrable risk of harm to personal safety and/or property.
- (B) The written denial must also contain a statement informing the housing applicant of their right to file a complaint with the Human Rights Commission of Cook County.

Section 760.120 Confidentiality

The housing provider must also limit the use and distribution of information obtained in performing the applicant's criminal background check. The housing provider must keep any information gathered confidential and in keeping with the requirements of the Ordinance.

Legislative History : 7/25/19 - Board of Commissioners - refer to the Rules and Administration Commi

Legislative History : 9/4/19 - Rules and Administration Committee - recommend for deferral



Secretary

Chairman: Suffredin

Vice-Chairman: Degnen

Members: Daley, Deer, Lowry, Miller, S. Morrison, Silvestri, Sims